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KLEEN, INC. and CLEAN HARBORS.  
INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

GEORGE FRANCO and KARLA  
FRANCO,

Plaintiffs,

v.

SAFETY-KLEEN INC, A DELAWARE  
CORPORATION; THE ARMAKLEEN  
COMPANY, A DELAWARE  
CORPORATION; CHURCH &  
DWIGHT CO. INC., A DELAWARE  
CORPORATION; CLEAN HARBORS,  
INC., A MASSACHUSETTS  
CORPORATION; AND DOES 1  
THROUGH 100, INCLUSIVE,

Defendants.

CASE NO.: \_\_\_\_\_

**NOTICE OF REMOVAL OF  
ACTION PURSUANT TO 28  
U.S.C. §§ 1332, 1441, AND 1446**

Action Filed: June 5, 2023  
Trial Date: Not set

**NOTICE OF REMOVAL**

**PLEASE TAKE NOTICE THAT**, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants **SAFETY-KLEEN, INC.**, and **CLEAN HARBORS, INC.** (the “Removing Defendants”), hereby remove the above-entitled action to this Court based upon the supporting grounds set forth below. Removing Defendants, appearing

solely for the purpose of this removal and for no other purpose, and preserving all defenses available, including, without limitation, jurisdictional defenses, state as follows:

### **THE REMOVED CASE/STATE COURT PLEADINGS**

1. On or about June 5, 2023, Plaintiffs commenced this action in the Superior Court of California, County of San Bernardino, captioned *George Franco and Karla Franco v. Safety-Kleen Inc., et al.*, Case No. CIVSB2312934. *See* Plaintiffs' Complaint, annexed as Exhibit A.

### **REMOVAL IS TIMELY**

2. Defendant Clean Harbors, Inc., was served with a copy of the Complaint on or about January 12, 2024. Plaintiffs claim Defendant Safety-Kleen, Inc., was served on or about January 12, 2024. Accordingly, removal is timely pursuant to 28 U.S.C. § 1446(b)(1).

### **THE AMOUNT-IN-CONTROVERSY REQUIREMENT IS SATISFIED**

3. Plaintiff George Franco alleges significant personal injuries as a result of alleged exposure to chemicals provided by Defendants. *See* Ex. A.

4. Plaintiff alleges that as a result he suffered and will continue to suffer pain and suffering and that he lost past and future income.<sup>1</sup> *See id.*, ¶¶ 67-68, 80-81, 120-121, 162-163, 200. Plaintiff is married to co-Plaintiff Karla Franco, who alleges that she has lost and been deprived of the services, love, companionship, comfort, affection, society, sexual relations, and solace of her husband. *See id.*, ¶¶ 1, 201-203.

5. Plaintiffs claim Plaintiff George Franco's alleged injuries include meningioma (brain tumor), necessitating medical treatment including hospitalization, surgery, and other treatment, which is ongoing. *See* Ex. A, ¶¶ 44-45.

6. The Complaint seeks various damages including "general damages,"

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<sup>1</sup> Removing Defendants deny that Plaintiffs are entitled to any relief, but that position is immaterial for the purpose of determining the amount in controversy.

1 “medical expenses,” “post-judgement interest,” “punitive damages,” and “costs of  
2 suit incurred.” *See id.*, prayer for relief.

3 7. As required by 28 U.S.C. § 1332(a), upon information and belief,  
4 Plaintiffs’ Complaint seeks damages in excess of \$75,000.

5 **THERE IS DIVERSITY OF CITIZENSHIP**

6 8. As required by 28 U.S.C. § 1332(a), there is complete diversity of  
7 citizenship.

8 9. Per the Complaint, Plaintiffs George and Karla Franco are citizens of  
9 California. *See* Ex. A, ¶ 1. As discussed below, no Defendant is a California citizen.

10 10. Defendant The Armakleen Company is a joint venture between  
11 Defendant Church & Dwight Co., Inc., a Delaware corporation with principal place  
12 of business in New Jersey, and non-party Safety-Kleen Systems, Inc., a Wisconsin  
13 corporation with principal place of business in Massachusetts. Therefore, The  
14 ArmaKleen Company is a citizen of Delaware, New Jersey, Wisconsin, and  
15 Massachusetts.<sup>2</sup> *See* California Secretary of State, Statement of Information  
16 Corporation for Church & Dwight Co., Inc., annexed as Exhibit B; Mass. Secretary  
17 of the Commonwealth database for Safety-Kleen Systems, Inc., annexed as Exhibit  
18 C.<sup>3</sup>

19 11. Defendant Church & Dwight Co., Inc., a Delaware Corporation with  
20 New Jersey principal place of business, is therefore a citizen of Delaware and New  
21 Jersey. *See* Ex. B.

22 12. Removing Defendant Safety-Kleen, Inc., a Delaware corporation with  
23 principal place of business in Massachusetts, is therefore a citizen of Delaware and  
24

25 <sup>2</sup> *See, e.g., Carson Constr. Co. v. Fuller-Webb Constr.*, 198 F. Supp. 464, 469 (“A determination of  
26 the question of diversity of citizenship depends upon the citizenship of the individual members of  
the joint venture.”) (D. Mont. 1961) (internal citation omitted).

27 <sup>3</sup> This Court may take judicial notice of information posted on state government websites. *See Ariz.*  
28 *Libertarian Party v. Reagan*, 798 F.3d 723, 727 n.3 (9th Cir. 2015) (“We may take judicial notice  
of official information posted on a governmental website, the accuracy of which [is] undisputed.”)  
(internal quotations omitted).

1 Massachusetts. *See* Delaware Department of State database for Safety-Kleen, Inc.,  
2 annexed as Exhibit D; Securities and Exchange Commission database for Safety-  
3 Kleen, Inc., annexed as Exhibit E.

4 13. Removing Defendant Clean Harbors, Inc., a Massachusetts Corporation  
5 with Massachusetts principal place of business, is therefore a citizen of  
6 Massachusetts. *See* Mass. Secretary of the Commonwealth database for Clean  
7 Harbors, Inc., annexed as Exhibit F.

8 14. For the foregoing reasons, this Court has subject matter jurisdiction  
9 pursuant to 28 U.S.C. § 1332 because this is a civil action in which the amount in  
10 controversy exceeds \$75,000, and Plaintiffs and Defendants are citizens of different  
11 states.

12 **CONSENT, VENUE, NOTICE TO STATE COURT, ETC.**

13 15. Defendant Church & Dwight Co., Inc., consents to this removal. Upon  
14 information and belief, no other Defendants besides Removing Defendants and  
15 Church & Dwight Co., Inc., have been served or putatively served, and therefore other  
16 Defendants' consent is not required.

17 16. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and  
18 1446(a) because the United States District Court for the Central District of California,  
19 Eastern Division, is the federal judicial district embracing the Superior Court of  
20 California, County of San Bernardino, where the underlying state court action was  
21 originally filed.

22 17. Trial has not commenced.

23 18. Removing Defendants will file a copy of this Notice of Removal in the  
24 Superior Court of California, County of San Bernardino, and will promptly thereafter  
25 serve a copy of the same upon the other parties to this action pursuant to 28 U.S.C.  
26 § 1446(d).

1           19. Removing Defendants are filing with the Notice of Removal a completed  
2 Civil Cover Sheet and separate Certificate of Interested Persons and Disclosure  
3 Statement.

4           20. Removing Defendants retain the right to supplement the jurisdictional  
5 allegations by affidavit, declaration, or otherwise should Plaintiffs challenge the  
6 allegations in a motion to remand or other filing.

7           **WHEREFORE**, Removing Defendants give notice that the above-captioned  
8 action in the Superior Court of California, County of San Bernardino, has been  
9 removed to this Court.

10 DATED: January 23, 2024

PATRICK J. FOLEY  
DAVID M. UCHIDA  
LEWIS BRISBOIS BISGAARD & SMITH LLP

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14 By: 

15 DAVID M. UCHIDA  
16 Attorneys for Defendants SAFETY-  
17 KLEEN, INC. and CLEAN HARBORS,  
18 INC.  
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